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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Telephone Number Portability

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CC Docket No. 95-116

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**COMMENTS OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**1. INTRODUCTION AND BACKGROUND**

On January 27, 2003, the Federal Communications Commission (FCC) released a Public Notice (Notice) in the above-captioned proceeding. The FCC's Notice invites Comment on the Cellular Telecommunications & Internet Association's (CTIA's) Petition for Declaratory Ruling (Petition) that wireline carriers must provide portability to wireless carriers operating within their service areas. Specifically, CTIA requests the FCC to rule that wireline carriers are obligated to provide the number portability capability in order for their customers' telephone numbers to be ported to Commercial Mobile Radio Service (CMRS) providers whose service area overlaps the wireline carrier's rate centers.

Comments responding to the FCC's Notice are due on February 26, 2003. The Public Utilities Commission of Ohio (PUCO or Ohio Commission) hereby submits its comments in response to the FCC's January 27, 2003 Notice in the above-captioned proceeding.

Filed for filing  
Dkt. No. 95-116 074

## II. DISCUSSION

The CTJA recounts the FCC's position with regard to local number portability (LNP) and the importance of CMRS participation in LNP to enhance "intermodal" competition between wireless and wireline service providers (Petition at 2). The CTIA posits that the FCC has not clarified crucial implementation issues regarding intermodal competition and absent such clarification, intermodal portability will not occur as required (*Id.*). According to CTIA, early in the course of identifying and resolving LNP issues, the industry identified an issue it termed "rate center disparity" (*Id.* at 4). The CTIA states that the rate center disparity issue is a result of the FCC's decision to limit wireline LNP to the existing rate center boundaries of incumbent LECs.

The CTIA claims throughout its petition that the rate center disparity issue is not a technical issue, but is instead a policy issue that should be resolved by the FCC. The PUCO agrees with CTIA that an FCC policy decision on this issue would be useful; however, the PUCO is not sure that CTIA is seeking resolution of the appropriate issue with this petition.

Attached to the CTIA's petition is the May 18, 1998, North American Numbering Council (NANC) report, "Local Number Portability Administration Working Group Report on Wireless Wireline Integration." As stated by CTIA, the FCC requested that the NANC explore the implementation of intermodal LNP and the rate center disparity issue. This effort was headed up by a sub-group of NANC, the LNP Working Group. The LNP Working Group was comprised of all segments of the telecommunications industry including equipment

manufacturers and state public utilities commissions. The LNP Working Group established a task force to specifically focus on the wireless and wireline rate center disparity issue. This task force, known as the Wireline Wireless Industry Task Force (WWITF), was also comprised of members of the industry and state commissions'. The WWITF submitted a joint document to NANC on January 20, 1998. This document is included in the May 18, 1998 NANC filing with the FCC in CC Docket 95-116, and as stated previously, is attached to CTIA's instant petition.

The WWITF document is important because it represents the concerns of both wireless and wireline companies with regard to the rate center disparity issue. According to WWITF, during its deliberations, it "identified a so-called disparity issue which would exist with the current architecture making it impossible for some wireless subscribers to port to wireline carriers. *No such restriction would prevent wireline subscribers from porting to a wireless carrier.*"<sup>2</sup> (emphasis added). At one point in its petition, the CTIA seems to acknowledge that wireless to wireline porting is the true issue (Petition at 10); while at other points, most significantly in the introduction and conclusion, it declares that wireline to wireless porting is the issue for the FCC to resolve. Nothing has changed with the network architecture since the 1998 report was filed; therefore, rate center disparity only creates an issue for *wireless to wireline portability*. The reason for this disparity is that a wireless carrier would not **be** associated with

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<sup>1</sup> Staff of the Ohio commission was an active participant in both the LNP Working Group and WWITF.

<sup>2</sup> NANC, Local Number Portability Administration Working Group Report on Wireless Wireline Integration, May 8, 1998, page 44. (NANC 1<sup>st</sup> Report)

an ILEC rate center and the former wireless customer would generally be moving from a larger calling area to a smaller calling area if porting a wireless number to a wireline carrier. Even though the wireless-to-wireline porting issue may require a policy determination by the FCC, even the wireless carriers recognized in the WWITF report that "[m]any wireless service providers, however, believe that a final resolution of the 'disparity' issue is unnecessary for the implementation of wireless wireline portability to continue".<sup>3</sup> The PUCO believes that the reason for the wireless carriers' statement is that the rate center disparity issue actually benefits the wireless carriers since most people would be more willing to move their service to a wireless carrier with potentially a larger local calling area.

The CTIA notes in its petition that the FCC "has established the MTA as the local calling area for CMRS, permitting CMRS carriers to use a single switch to serve radio facilities over a very wide geographic area". (Petition at 5). CLECs, like CMRS, use a single switch to serve several rate centers and have been able to port numbers with no difficulty. When a number is ported, the LRN associated with the switch will allow a call to route properly. Furthermore, CMRS are currently pooling NXX's with wireline carriers. Pooling and porting are based on the same technology, LRN. The PUCO believes that the rate center disparity issue does not appear to be a problem with inter-modal pooling. The wireless and wireline carriers are sharing NXX's that are associated with a particular rate center.

CTIA requests the FCC to affirm that a wireline carrier's obligation to port numbers to wireless carriers necessitates only a service-level porting agreement between carriers. CTIA

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<sup>3</sup> NANC 1<sup>st</sup> Report at 45.

Petition at 3. As required by the Telecommunications Act of 1996 (the Act), the State commissions approve or reject interconnection agreements. 47 U.S.C. § 252(e)(6) (West 2002). The state commissions also assist in mediation and arbitration of interconnection agreements. 47 U.S.C. § 252 (West 2002). The decision on how to accommodate a change/amendment to the interconnection agreement should be left to the state commissions, in accordance with Section 252 of the Act.

Interconnection agreements themselves commonly contain language that explains how the parties will proceed in light of any change in the law. These provisions are often referred to as Intervening Law or Change of Law provisions. These provisions spell out the procedure to follow in case of a change in the law. Normally the parties attempt to arrive at an agreement respecting the appropriate modifications to the contract. In some contracts, if the parties themselves are unable to resolve the interpretation of the actions required, there is a dispute resolution process provided for in the agreement.

The PUCO does not oppose utilizing a service-level porting agreement. But the method for handling any amendment to an interconnection agreement is likely specified in the agreement itself. In addition, if the state has acted under Section 252, any amendment to the agreement would naturally go before the state commission. There is no need for the FCC to declare that a standard service-level porting agreement is mandatory in each situation because there may be existing agreements that already have a mechanism in place for parties to handle such amendments to the contract.

It is important to recognize that, unlike prior filings made before the FCC, CTIA is not seeking an extension of time to comply with established deadlines for instituting local number portability. In the past, CTIA had requested extensions of time of LNP deployment based on cost concerns and technical difficulties in implementing LNP within the requisite time frames. Now, for the first time since the FCC required CMRS compliance with local number portability, CTIA has taken a new tack and raises the new and unrelated issue of whether wireline carriers are obligated to provide portability of their customers' telephone numbers to CMRS providers whose service area overlaps the wireline carriers' rate centers. This issue has nothing to do with the CMRS companies' compliance with the November 2003 deadline for instituting LNP and appears to be nothing more than subterfuge for the purpose of diverting attention away from the real issue of CMRS compliance with the established deadline for LNP deployment

While CTIA appears to be indicating that its concerns must be addressed in order to ensure that the public is not misled into believing that they can port their wireline number to a wireless carrier, such arguments are untimely and beyond the point of practical consideration. The FCC has already determined on numerous occasions that CMRS participation is required. It is inappropriate at the eleventh hour for CTIA to suddenly raise the disjointed issue of the ability of wireline providers to port wireline numbers to CMRS providers. Further, as discussed herein, there has never been a pending technical issue regarding the porting of telephone numbers from wireline carriers to *CMRS* providers. Rather, the only questions are those raised related to porting from wireless to wireline providers

While on the subject of CMRS number portability requirements, consistent with our September 2, 2001 comments to the FCC in WT Docket No. 01-184 (*In the Matter of The Wireless Telecommunications Bureau Request for Comment on Wireless Number Portability Forbearance Petition Filed by Verizon Wireless*), the Ohio Commission notes that the wireless industry has enjoyed many of the pro-competitive benefits of the 1996 Act, but has been subject to few of the 1996 Act's pro-competitive obligations. Specifically, in its August 1, 1996 decision in CC Docket Nos. 96-98 and 95-185 (*In the Matter of Implementation of Local Competition Provisions of the Telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*), the FCC determined that wireless providers met the 1996 Act's definition of telephone exchange service provider. Consequently, the FCC determined that wireless carriers should no longer be classified as access customers of local exchange providers, but instead should be subject to the FCC's local carrier reciprocal compensation and interconnection rules. The overall effect of the FCC's reclassification was to reduce significantly wireless providers' interconnection expense. First, under the reciprocal compensation regime, CMRS providers are compensated by competing LECs for calls terminating on wireless networks. Second, reciprocal compensation reduces overall CMRS interconnection expense by setting such charges at total element long run incremental cost (TELRIC). Under the FCC's same rules, wireless carriers are not required to provide their potential local competitors unbundled network elements (UNEs) as are their incumbent wireline counterparts.

Taking into consideration the FCC's reclassification of CMRS providers from access customer to local competitor, the Ohio Commission contends that, as a matter of regulatory parity, the FCC should also require wireless local service providers to implement LNP by the November 24, 2003 date. That is, if CMRS providers desire to maintain their status as local carriers for purposes of reciprocal compensation, they must also assume the LNP obligation.

**CONCLUSION**

The PUCO respectfully requests the FCC to affirm that the issues raised in the CTIA petition have no affect on the CMRS companies' compliance with the November 2003 LNP deadline.

Respectfully submitted,

**ON BEHALF OF THE PUBLIC UTILITIES  
COMMISSION OF OHIO**

**Jim Petro  
Attorney General**

A handwritten signature in cursive script, reading "Jodi J. Bair", is written over a horizontal line.

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